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121 N. Front St.  
Marquette, MI 49855  
August 16, 1995

AUG 21 1995

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

EX PARTE

Re: PR Docket No. 93-144

Dear Mr. Caton:

On behalf of SMR-WON and pursuant to Section 1.1206 of the Federal Communications Commission's Rules, this letter constitutes notice that David Savolainen and Harold O'Dell met on August 16, 1995 with David Furth, Deputy Acting Chief, Commercial Radio Division and staff to discuss implications of the Proposed Rulemaking and progress of industry consensus that SMR-WON has been working on.

A discussion draft that has been distributed by AMTA and the response of SMR-WON were reviewed. Copies of this material were left with Mr. Furth and are also attached to this letter.

An original and one copy of this letter have been filed with the Secretary pursuant to Section 1.1206. Should any questions arise in connections with this notification, please do not hesitate to contact the undersigned.

Respectfully submitted,

SMR-WON

*David J. Savolainen*  
(ps)  
David J. Savolainen  
President

enc.

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**DISCUSSION DRAFT**  
**800 MHz WIDE AREA SMR PROPOSAL FOR CONSENSUS**

**800 MHz Wide Area SMR Service and Auction Rules**

-- BEA Service Areas for Upper 200 Channels.

Rationale: BEA service areas best match existing and future SMR deployment needs. A broad-based industry consensus has been reached to support use of BEAs rather than Rand McNally MTA or BTA service areas.

-- Bidders would be permitted to bid on and hold licenses for all 200 channels in any given BEA.

-- Licensing the upper 200 SMR Channels in 120, 60, and 20-channel blocks.

\* A 120-channel block is needed to provide sufficient spectrum to support various wideband digital technologies.

\* A 60-channel block is needed to provide sufficient spectrum to support various analog technologies.

\* A 20-channel block will afford opportunities for smaller SMR operators to participate.

Rationale: The menu of different-size spectrum blocks will promote a variety of new services and afford entry opportunities for a diversity of future licensees. The three block sizes can support different types of technologies and accommodate different visions of the SMR service.

-- Partitioning and Aggregation:

\* Auction winners would be allowed to engage in geographic or spectrum channel partitioning.

\* Auction winners would be allowed to aggregate channels or geographic areas.

Rationale: Partitioning and aggregation help to maximize efficient and effective use of spectrum by giving auction winners the ability to combine and subdivide based upon specific market needs or business plans. It helps to insure that the party valuing the spectrum most will be the ultimate operation on that spectrum for any given service area.

- Auctions for all three sizes of channel blocks and all BEAs would be conducted under simultaneous, multi-round auction procedures.
- All spectrum should be available to prospective bidders.
- Strict construction and coverage rules would apply to winning bidders.

#### **Policies Governing the Returning of Incumbent SMR Licensees**

- Auction winners could require an incumbent licensee to relocate within the upper 200 channels. However, no incumbent SMR licensee would be required to retune to frequencies outside the upper 200 channels.
- Incumbent SMR operators within the upper 200 channels would have a choice to request retuning to lower channels if spectrum is available to accommodate them.
- Incumbent SMR licensees would be subject to involuntary retuning to other frequencies within the upper 200 channels if afforded full cost compensation and comparable alternative facilities.
- Incumbent Retuning Rights:
  - \* The wide-area licensee would guarantee payment of all costs of retuning the incumbent, including all engineering and equipment fees, as well as any additional reasonable costs. Such expenses might include: FCC filing fees, preparation of any necessary applications.
  - \* The retuned frequencies would be selected so that they are compatible in a multi-channel system at the incumbent's operating location.
  - \* The new frequencies would co-channel users no closer than in the incumbent's current system, up to a maximum of 70 miles.
  - \* The incumbent's base station equipment would be modified to operate on the new frequencies, and all user units would be reprogrammed/recrystallized for the new frequencies, including user control stations. In some cases, the incumbent and user equipment will not be modifiable and new equipment will be necessary.
  - \* The wide-area licensee would complete all activities necessary for placing the new system into operation and provide the incumbent with a seamless transition to the new system.

- \* If the wide-area licensee and the incumbent operator cannot agree on the terms of comparable alternative facilities or compensation, the dispute shall be resolved through arbitration. The FCC will designate appropriate arbitration procedures.

#### **General SMR Rules and Policies**

- Strict anti-warehousing and construction requirement would apply.
- The General Pool channels and the remaining 80 channels of the SMR Pool would be available for retuned incumbents and local SMR operations.
- The Public Safety, Industrial/Land Transportation and Business frequency pools would continue to be licensed under existing policies.
- SMR operators would not be eligible for grants of future licenses in the Public Safety, Industrial/Land Transportation and Business frequency pools.
- Future local SMR licenses (outside the upper 200 channels) would be issued auctions on a BEA basis after licenses are granted to retuned incumbents in the lower channels.

**DISCUSSION**  
**800 MHz WIDE AREA SMR PROPOSAL FOR CONSENSUS**

**800 MHz Wide Area SMR Service and Auction Rules**

**XDRAFT--SMR-WON**

**REVISION**

-- BEA Service Areas for Upper 200 Channels.

Rationale: BEA service areas best match existing and future SMR deployment needs. A broad-based industry consensus has been reached to support use of BEAs rather than Rand McNally MTA or BTA service areas.

-- Bidders would be permitted to bid on and hold licenses for all 200 channels in any given BEA.

-- Licensing the upper 200 SMR Channels in 60, 60, 60, and 20-channel blocks.

\* 60-channel blocks are needed to provide sufficient spectrum to support various technologies.

\* A 20-channel block will afford opportunities for smaller SMR operators to participate.

Rationale: The menu of different-size spectrum blocks will promote a variety of new services and afford entry opportunities for a diversity of future licensees. The three block sizes can support different types of technologies and accommodate different visions of the SMR service. **RESPONSE--Blocks force contiguous operation. What analog technology is available for such a plan?**

-- Partitioning and Aggregation:

**DEFINE** \* Auction winners would be allowed to engage in geographic or spectrum channel partitioning.

\* Auction winners would be allowed to aggregate channels or geographic areas.

Rationale: Partitioning and aggregation help to maximize efficient and effective use of spectrum by giving auction winners the ability to combine and subdivide based upon specific market needs or business plans. It helps to insure that the party valuing the spectrum most will be the ultimate operation on that spectrum for any given service area. **RESPONSE: Incumbent operators value spectrum the most. However, they may not be in a financial position to compete in an auction environment.**

- Auctions for all three sizes of channel blocks and all BEAs would be conducted under simultaneous, multi-round auction procedures.
- All spectrum should be available to prospective bidders.
- DEFINE-** Strict construction and coverage rules would apply to winning bidders.

#### **Policies Governing the Returning of Incumbent SMR Licensees**

- Auction winners could require an incumbent licensee to relocate within the upper 200 channels. However, no incumbent SMR licensee would be required to retune to frequencies outside the upper 200 channels.
- Incumbent SMR operators within the upper 200 channels would have a choice to request retuning to lower channels if spectrum is available to accommodate them.
- Incumbent SMR licensees would be subject to involuntary retuning to other frequencies within the upper 200 channels if afforded full cost compensation and comparable alternative facilities.
- Incumbent Rights:

**Incumbents would be given a selection of alternatives which include one of the following options:**

- a. **Equivalent channel and channel premium.**
- b. **Equivalent channel and cash value.**
- c. **Cash buy-out at fair market value.**
- d. **Any mutual agreement that can be reached between incumbent and relocater.**

**Option A or B must include the following:**

- \* The wide-area licensee would guarantee payment of all costs of retuning the incumbent, including all engineering and equipment fees, as well as any additional reasonable costs. Such expenses might include: FCC filing fees, preparation of any necessary applications. **Tower rentals and other reoccurring costs must also be included.**
- \* The retuned frequencies would be selected so that they are compatible in a multi-channel system at the incumbent's operating location.
- \* The new frequencies would co-channel users no closer than in the incumbent's current system, up to a maximum of 70 miles.

- \* The incumbent's base station equipment would be modified to operate on the new frequencies, and all user units would be reprogrammed/recrystallized for the new frequencies, including user control stations. In some cases, the incumbent and user equipment will not be modifiable and new equipment will be necessary. **This includes combiners, multicouplers, feedlines, antennas, all R.F. equipment and ancillary hardware and software.** R
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- \* The wide-area licensee would complete all activities necessary for placing the new system into operation and provide the incumbent with a seamless transition to the new system.
  - \* If the wide-area licensee and the incumbent operator cannot agree on the terms of comparable alternative facilities or compensation, the dispute shall be resolved through arbitration. The FCC will designate appropriate arbitration procedures.

#### **General SMR Rules and Policies**

- DEFINE-** Strict anti-warehousing and construction requirement would apply.
- The General Pool channels and the remaining 80 channels of the SMR Pool would be available for retuned incumbents and local SMR operations.
  - **The 80 channel SMR block would only be converted to a geographic license.**
  - The Public Safety, Industrial/Land Transportation and Business frequency pools would continue to be licensed under existing policies.
  - SMR operators would not be eligible for grants of future licenses in the Public Safety, Industrial/Land Transportation and Business frequency pools.
  - Future local SMR licenses (outside the upper 200 channels) would be issued auctions on a BEA basis after licenses are granted to retuned incumbents in the lower channels.